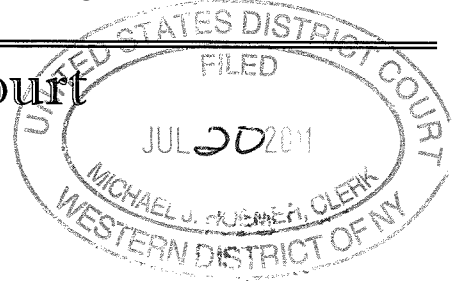


United States District Court
for the
Western District of New York



United States of America

v.

RYAN THOMAS BREEN,
Defendant

Case No. 11-M - 119

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Between on or about the date of June 17, 2011 and June 30, 2011 in the Counties of Erie and Wayne in the Western District of New York, and elsewhere, the defendant violated Title 18 U.S.C. § 2320(a), such offense as described as follows:

(1) The defendant did intentionally traffic in goods, specifically counterfeit Sons of Anarchy Brand merchandise, while knowingly using on and in connection with such goods counterfeit marks, to wit: spurious marks identical to and substantially indistinguishable from Sons of Anarchy Brand merchandise, marks that were in use and registered for those goods with the United States Patent and Trademark Office, the use of which counterfeit marks was likely to cause confusion, to cause mistake, or to deceive.

This criminal complaint is based on these facts:

☐ Continued on the attached sheet.

N. M. Peruzzini
Complainant's signature

Nicholas M. Peruzzini, Special Agent, HSI/ICE
Printed name and title

Sworn to before me and signed in my presence.

Date: July 20, 2011

H. Kenneth Schroeder, Jr.
Judge's signature

City and State: Buffalo, New York

HONORABLE H. KENNETH SCHROEDER, JR.
United States Magistrate Judge
Printed name and title

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

I, Nicholas M. Peruzzini, being duly sworn, depose and state the following:

1. I am a Special Agent with the Department of Homeland Security, Immigration and Customs Enforcement (ICE) assigned to Homeland Security Investigations (HSI). I have been employed as a Special Agent since February 2007. As part of my duties, I investigate criminal violations relating to intellectual property offenses. In the course of my employment with ICE, I have received training and have experience in the area of computer technology and intellectual property offenses. Thus, I am familiar with how counterfeit goods are imported, distributed, and sold.

2. I make this affidavit in support of a criminal complaint charging Ryan Thomas BREEN (DOB: XX/XX/1980) with violating Title 18 United States Code, Section 2320 (Trafficking in Counterfeit Goods).

3. I am currently involved in an investigation regarding the importation, sale, and distribution of counterfeit consumer goods

through various web sites. As will be discussed more fully below, there is probable cause to believe that these web sites have been used to sell consumers infringing copyrighted materials and counterfeit goods bearing trademarks. My investigation specifically involves persons and businesses that sell large quantities of counterfeit merchandise via the internet.

4. This affidavit is submitted for a limited purpose, that is, a probable cause determination for the issuance of a criminal complaint for Ryan Thomas Breen. Not all facts of the investigation are contained herein. The facts set forth in this affidavit are based upon my own personal knowledge; knowledge obtained from other individuals, including law enforcement officers and industry representatives; my review or the review by other law enforcement officers of documents of undercover law enforcement activities related to this investigation; communications with others who have personal knowledge of the events and circumstances described herein; consultations with technical experts in industry; and information gained through my training and experience.

SUMMARY OF INVESTIGATION

5. This investigation is predicated upon information received from industry representatives for the FX NETWORK advising

that the website ventma.com was being used to facilitate the sale of counterfeit consumer goods, namely "Sons Of Anarchy" brand merchandise. On April 19, 2011, ICE/HSI was contacted by Amherst Security Consultants Inc., regarding an investigation being conducted on behalf of Twentieth Century Fox Film Corporation into Ryan BREEN and the website "Ventma.com." This investigation indicated the website ventma.com was being used to facilitate the sale of counterfeit "Sons of Anarchy" brand merchandise. As set forth in greater detail below, there is probable cause to believe that ventma.com is being used in connection with the illegal trafficking of counterfeit goods and the willful, unauthorized reproduction and distribution of infringing copies of trademark works, such as "Sons of Anarchy" apparel.

INVESTIGATION OF VENTMA.COM

6. On June 17, 2011, SA Peruzzini and SA O'Rourke, utilizing an HSI Agent acting in an undercover capacity (hereinafter UC), made purchases of suspected counterfeit merchandise from the target website ventma.com. The following "Sons of Anarchy" branded products were purchased: 25 Sons of Anarchy California Mens T-shirts (\$324.00). The total cost listed by the website including shipping was \$343.71.

7. On June 20, 2011, a transaction was posted to the UC credit card in the amount of 343.71.

8. Record checks completed by SA O'Rourke on June 23, 2011, revealed that the website www.ventma.com has the following (DNS) identifiers "DNS7.ATWOODZHOSTING.COM" and "DNS8.ATWOODZHOSTING.COM" associated with it. The registrant is listed as Domains by Proxy, Inc., with no further information available. The IP address associated with the domain name is 174.123.117.116 with a listed server location in Dallas, Texas, and is listed as belonging to Theplanet.com Internet Services Inc., with an ASN number of AS21844. The ICANN Registrar is listed as GODADDY.COM, INC.

9. On June 23, 2011, SA Peruzzini made undercover purchases of suspected counterfeit merchandise from the target website. The following "Sons of Anarchy" branded products were purchased: 25 Sons of Anarchy New York Mens T-shirts (\$324.00). The total cost listed by the website including shipping was \$338.01.

10. On June 23, 2011, SA Peruzzini received an e-mail at the UC e-mail account from customerservice@ventma.com (hereinafter RYAN) stating the following, "Please email us back as soon as you can with what sizes you would like these 25 shirts in. Thanks again, Ryan."

11. On June 23, 2011, SA Peruzzini sent an e-mail from a UC e-mail account to RYAN stating the following, "I have two orders in right now each for 25 shirts. Please do the same size break down for both orders. Small - 5 Medium - 5 Large - 10 X Large - 5."

12. On June 23, 2011, SA Peruzzini received the following e-mail message from RYAN stating the following, "Ok we will. Thanks Ryan."

13. On June 24, 2011, a transaction was posted to the UC credit card in the amount of 338.01.

14. On June 30, 2011, a package arrived at an undercover mailbox in Buffalo, NY. The package had a United States Postal Service parcel post label affixed to it with the shipping date of June 28, 2011, with the return address of Start It INC, P.O. Box 295, Savannah, NY 13146, and the Tracking Number 420142239102010521297353566179. The following items were found inside the package: 25 Sons of Anarchy California Mens T-shirts and 25 Sons of Anarchy New York Mens T-shirts. Each style shirt was provided in the following sizes: 5 small, 5 medium, 10 large, 5 extra large.

15. On July 6, 2011, Jeremy Kaufman of Fox Legal Group, Senior Counsel for Intellectual Property, advised that the Sons of Anarchy brand t-shirts purchased on June 17, 2011 and June 23, 2011, were unauthorized merchandise.

16. On July 14, 2011, SA Aiello and SA O'Rourke observed BREEN arriving at the Savannah, NY, post office and carrying approximately 5 packages through the side door of the post office. The packages were being sent from Start It Inc 1233 Wiley Road Savannah, NY, and were being sent to various locations including California, Florida, New York, and Australia.

17. On July 19, 2011, record checks conducted revealed that the telephone number (315) 751-6162, a contact number listed on ventma.com and a Facebook page associated with ventma.com, was an AT&T wireless phone number registered to Ryan BREEN.


18. On July 19, 2011, SA Peruzzini observed a user profile at Ventma.com, believed to be associated with BREEN for a user named "Ventman." The webpage contained a photo of BREEN with "MR.PREZ" listed above and "Ventma.com CEO" listed at the bottom. The web also contained the biographical information of "31 years, Male, NY."

19. In an affidavit dated July 19, 2011, Jeremy Kaufman of Fox Legal Group, Senior Counsel for Intellectual Property, supported his findings on July 6, 2011. Mr. Kaufman stated that Fox owns various U.S. trademark registrations and applications for "Sons of Anarchy" that cover entertainment services and a wide array of consumer products, including U.S. Trademark Registration No. 3937981 that covers apparel, and common law trademark rights in the SOA Logo (all collectively the "SOA Marks"). Mr. Kaufman stated that the examined apparel provided by SA Peruzzini are counterfeit and not manufactured under license. Mr. Kaufman further indicated that Fox had previously requested that Breen cease offering for sale the SOA merchandise, but believes that Breen has persisted in offering to sell unauthorized SOA merchandise.

20. On July 19, 2011, a seizure warrant was issued in the Western District of New York by the Honorable H. Kenneth Schroeder, Jr., U.S. Magistrate Judge, for the domain name ventma.com.

WHEREFORE, it is respectfully submitted that probable cause exists to believe that Ryan Thomas Breen has knowingly and


intentionally violated Title 18, United States Code, Section 2320(a) (Trafficking in Counterfeit Goods).



Nicholas M. Peruzzini
Special Agent
Department of Homeland Security
Homeland Security Investigations
Immigration & Customs Enforcement

Subscribed to and sworn before me

this 20th day of July, 2011.



HON. H. KENNETH SCHROEDER, JR.
United States Magistrate Judge
Western District of New York